entities that are not a Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing arrangement or royalty agreement in any electronic publishing joint venture."[217] Under Section 274(c)(2)(C), "[o]fficers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture."[218] "In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent."[219] A BOC participating in an electronic publishing joint venture "may provide promotion, marketing, sales, or advertising personnel and services to such joint venture."[220]

104. Section 274(d) requires a "Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint . . . [to] provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation)."[221] Those rates cannot be "higher on a per-unit basis than those charges for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing."[222]

a. Comparison of Sections 274 and 272

105. The language of Section 274's structural and transactional requirements differs from the structural and transactional requirements of Section 272. We invite comment on whether the distinction between a "separated affiliate" under Section 274[223] and a "separate affiliate" under Section 272[224] requires or permits different accounting treatment for affiliate

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[217] Id. at § 274(c)(2)(C).

[218] Id.

[219] Id.

[220] Id.

[221] Id. at § 274(d).

[222] Id.

[223] Id. at § 274(b).

transactions pursuant to Sections 272 and 274. Specifically, we seek comment whether we should apply our affiliate transactions rules, as we propose to modify them, to transactions between a BOC and its electronic publishing joint venture or "separated affiliate." We seek comment on whether application of these rules would provide adequate accounting safeguards for the joint activities permitted under Section 274(c)(2). Because Section 274 allows a BOC to provide electronic publishing through either a "separated affiliate" or a joint venture, we also seek comment on whether we should distinguish, for Title II accounting purposes, between transactions involving a BOC and its "separated affiliate" and those involving a BOC and its electronic publishing joint venture.

b. Audit Requirements

106. Section 274(b)(8) requires electronic publishing "separated affiliates" or joint ventures and the BOC with which they are affiliated to have performed an annual compliance review "conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of [Section 274]."[225] The results of such a review must be maintained by the "separated affiliate" or the joint venture for a five-year period.[226] We seek comment regarding how such compliance reviews should be conducted. We ask commenters to address specifically what matters the annual compliance review should encompass. We propose to require the independent entity to prepare and file with the Commission reports describing: (1) the scope of its compliance review, with a description of how the affiliate's or joint venture's books were examined and the extent of the examination; (2) the independent entity's conclusion whether examination of the books has revealed compliance or non-compliance with the affiliate transactions rules and any other non-discrimination requirements imposed by Commission rules; (3) any limitations imposed on the independent entity in the course of its review by the affiliate or joint venture or other circumstances that might affect the entity's opinion; and (4) statements by the independent entity as to whether the carrier's accounting and affiliate transactions methodologies conform to the Communications Act of 1934, as amended, and the Commission's rules and whether the carrier has accurately applied the methodologies. We seek comment on the necessity or desirability of this approach.

107. Section 274(b)(9) states a separated affiliate or joint venture and the BOC with which it is affiliated shall "within 90 days of receiving a review described in [Section 274(b)(8)], file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such review subject to reasonable safeguards to protect any

[224] Id. at § 272.

[225] Id. at § 274(b)(8)(A).

[226] Id. at § 274(b)(8)(B).

proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under [Section 274]."[227] We seek comment regarding what "reasonable safeguards" may be necessary to protect proprietary information in the compliance review report "from being used for purposes other than to enforce or pursue remedies under [Section 274]."

c. Section 274(f)'s Reporting Requirement

108. Section 274(f) requires "[a]ny separated affiliate under [Section 274 to] file with the Commission annual reports in a form substantially equivalent to the Form 10-K required by regulations of the Securities and Exchange Commission."[228] The Form 10-K contains a description of the company filing the report and its operations, financial statements with supporting financial data, and major legal and financial disclosures concerning the company. We tentatively conclude that, to minimize burdens on the filing companies, we should require the separated affiliate to file the Form 10-K with us as well as the Securities and Exchange Commission. We recognize, however, that not all separated affiliates providing electronic publishing services would be subject to the Security and Exchange Commission's Form 10-K requirement. With regard to these separated affiliates, we seek comment on what "substantially equivalent to the Form 10-K" means under Section 274(f).

d. Section 274 Transactional Requirements

109. Section 274(b)(1) requires the "separated affiliate" or joint venture to "maintain books, records, and accounts and prepare separate financial statements." We invite comment on the steps we should take to implement this provision. We ask the commenters to address whether it is necessary for the Commission to adopt any additional accounting, bookkeeping, or record keeping requirements for these affiliates and joint ventures, and, if so, what those additional requirements should be.

110. Under Section 274(b), the "separated affiliate" or joint venture "shall be operated independently from the [BOC]."[229] The "separated affiliate" or joint venture and the BOC with which it is affiliated must "carry out transactions (i) in a manner consistent with such independence, (ii) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (iii) in a manner that is auditable in accordance with generally accepted auditing standards."[230] We seek comment on the meaning of "in a manner consistent

[227] Id. at § 274(b)(9).

[228] Id. at § 274(f).

[229] Id. at § 274(b).

with such independence." We also seek comment as to whether any regulations are necessary to implement Sections 274(b)(3)(A) and (b)(3)(B).

111. We further seek comment on whether and, if so, how we should amend our rules to implement the requirement that transactions under Section 274(b)(3)(C) be "auditable in accordance with generally accepted auditing standards." Generally accepted auditing standards refer to standards and guidelines promulgated by the American Institute of Certified Public Accountants that an independent auditor must follow when preparing for and conducting an audit of a company's financial statements. These standards generally require that the auditor review a company's internal controls and determine whether adequate documentation exists to verify that the company has recorded transactions on its books in a manner consistent with generally accepted accounting principles.[231]

112. According to Section 274(b)(4), the "separated affiliate" or joint venture must also "value any assets that are transferred directly or indirectly from the [BOC] to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross-subsidies."[232] We have proposed in this Notice to conform our valuation methods under the affiliate transactions rules for the provision of services to those governing asset transfers. Regardless of how we resolve that issue, because Section 274 specifically addresses asset transfers between a BOC and its "separated affiliate" or joint venture, we seek comment on whether in this case we should distinguish between the asset transfers and the provision of services in the context of electronic publishing affiliate transactions.

e. Scope of Commission's Authority

113. Although electronic publishing is specifically included within the definition of information service in Section 3(20), it is specifically exempted from the separate affiliate and nondiscrimination requirements of Section 272.[233] Section 274, which applies only to BOCs, requires the use of a "separated affiliate" or "electronic publishing joint venture" in order for a BOC to engage in the provision of electronic publishing services via basic telephone services.

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[230] Id. at § 274(b)(3).

[231] See Section III.B.1.b., supra, for a discussion of generally accepted accounting principles.

[232] 47 U.S.C. § 274(b)(4).

[233] Id. at § 272.

114. Section 274 imposes a number of safeguards on the provision by BOCs of electronic publishing through a separated affiliate or electronic publishing joint venture. Unlike Sections 260 and 275, however, Section 274 specifically refers to State commission jurisdiction regarding one of these safeguards. Section 274(b)(4) provides that a separated affiliate or joint venture and the BOC with which it is affiliated shall:

> value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission *or a State commission* to prevent improper cross subsidies.[234]

This explicit reference to State commission regulations indicates that the requirements of this section apply to both interstate and intrastate electronic publishing services, and at the same time suggests that the Commission may not have exclusive jurisdiction over all aspects of intrastate services pursuant to Section 274. In light of this subsection, we seek comment on the extent of our authority, if any, under Section 274 over intrastate electronic publishing services.

115. Section 274(e) also provides that any person claiming a violation of this section may file a complaint with the Commission, or may bring suit pursuant to Section 207.[235] It also provides that an application for a cease and desist order may be made to the Commission, or in any district court. No reference is made to complaints being filed with State commissions. We seek comment on the extent to which the Commission has jurisdiction under Section 274 over intrastate electronic publishing, particularly in light of the specific provisions of Sections 274(b)(4) and 274(e). We ask that commenters clearly identify whether specific subsections of Section 274 confer intrastate authority with respect to accounting matters addressed by Section 274 on the Commission.

116. To ensure a complete record, we also seek comment on whether, apart from any intrastate jurisdiction conferred by Section 274 itself, we have authority to preempt State regulation with respect to the accounting matters addressed by Section 260 pursuant to *Louisiana PSC* and, if so, whether we should exercise that authority.[236] We tentatively conclude that if Section 274 does not apply to intrastate services and if we have authority to preempt pursuant to *Louisiana PSC*, we should refrain from exercising it in this area and instead retain our prior policy of not preempting States from using their own cost allocation procedures for

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[234] Id. at § 274(b)(4) (emphasis added).

[235] Id. at § 274(e).

[236] Louisiana PSC, 476 U.S. at 375 n.4.

intrastate purposes. We invite comment on this tentative conclusion. We also invite comment on what role States might have in implementing Section 274's accounting safeguards provisions, given the above analysis. We ask commenters to address whether in enacting Section 274, Congress intended to foreclose the States from departing from the federal cost allocation procedures for electronic publishing in their regulation of "charges . . . for or in connection with intrastate communications service[s]."[237] We also ask the commenters also to address whether preemption in this area would be necessary to achieve the intent behind Section 274 or whether less intrusive measures would be sufficient.

f. Miscellaneous

117. Section 274(d) also requires a "Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture . . . [to] provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charges for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing."[238] We tentatively conclude that we should apply our affiliate transactions rules, as we propose to modify them, to the provision of "network access and interconnections for basic telephone service" by a BOC under common ownership or control to ensure compliance with Section 274(d). We seek comment on this tentative conclusion.

4. Separated Operations under Sections 260, 271, 275 and 276

118. While Sections 260, 271, 275 and 276 of the 1996 Act define categories of services that BOCs and, in some cases, incumbent local exchange carriers may not necessarily have to offer through a separate affiliate, a BOC or other incumbent local exchange carrier might, even if not required to do so, choose to perform these activities through an affiliate.[239] We note that these sections do not explicitly impose regulatory requirements for transactions between a regulated company and its nonregulated affiliate. Sections 260, 275 and 276 bar the subsidization of the competitive businesses permitted under those sections by subscribers of either exchange or exchange access services. Section 260(a)(1) states that "[a]ny local exchange carrier subject to the requirements of section 251(c) . . . shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access."[240]

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[237] See 47 U.S.C. § 152(b).

[238] Id. at § 274(d).

[239] Id. at §§ 260, 275-276.

Section 275(b)(2) prohibits the subsidization of alarm monitoring services "either directly or indirectly from telephone exchange service operations."[241] Section 276(a)(1) bars any BOC that provides payphone service from "subsidiz[ing] its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations."[242] We believe that application of our affiliate transactions rules, as we propose to modify them, to transactions between an incumbent local exchange carrier and any of its affiliates engaged in activities that Sections 260, 275 and 276 of the 1996 Act might permit or require the carrier to offer through a separate affiliate would be consistent with these statutory mandates. We therefore seek comment on whether we should apply the affiliate transactions rules, with the proposed modifications, to transactions between an incumbent local exchange carrier and any of its affiliates engaged in activities that Sections 260, 275 and 276 might permit or require the carrier to offer through a separate affiliate. It is important to note, that we tentatively conclude in a companion item, *BOC In-Region NPRM*, that telemessaging, as defined in Section 260, is an information service.[243] BOC provision of telemessaging on an interLATA basis would therefore be subject to the separate affiliate and other requirements of Section 272.

119. We also ask commenters to identify any interLATA telecommunications services, other than the interLATA telecommunications services that Section 272 requires BOCs to provide through a separate affiliate, that the BOCs may choose to provide on a separated basis and for which we should develop appropriate affiliate transactions rules.[244] In the case of such services, the 1996 Act does not explicitly impose or require specific regulatory safeguards to prevent subsidies. All of these interLATA telecommunications services would currently be considered regulated services for Title II accounting purposes, and, absent a Commission requirement to the contrary, the affiliates that offer these services would therefore classify them as regulated for Title II accounting purposes. Our existing affiliate transactions rules are solely designed to govern transactions between regulated carriers and their nonregulated affiliates.[245] Because interLATA telecommunications services present a potential for improper subsidization, we tentatively conclude that we should apply our affiliate transactions rules to transactions between each BOC and any interLATA telecommunications services affiliate it establishes. We invite comment on this tentative conclusion. We also invite comment on whether and how we

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[240] Id. at § 260(a)(1).

[241] Id. at § 275(b)(2).

[242] Id. at § 276(a)(1).

[243] See BOC In-Region NPRM at 54.

[244] E.g., "out-of-region" interstate, interexchange services. See Interexchange Notice at paras. 56-62.

[245] Id.

should adapt our affiliate transactions rules if applied to such transactions and, in particular, whether we should adopt special valuation methodologies for these transactions to recognize the regulated status of the affiliates on both sides of the transactions.

IV. OTHER MATTERS

A. Price Caps

1. General

120. Our existing Part 64 cost allocation rules were developed when all local exchange carriers were subject to cost-based, rate-of-return regulation. Today, we rely upon price cap, rather than rate-of-return, regulation to ensure that rates for the interstate services of the largest incumbent local exchange carriers, including the BOCs, are reasonable.[246] Many States also have moved away from the traditional rate-of-return regulation by establishing temporary rate freezes or other price cap-like plans. Several State plans that were implemented before the Commission adopted price caps helped to guide us in developing the federal plan. Under the Commission's plan, price cap indices limit the prices that incumbent local exchange carriers may charge for their regulated interstate services. The indices are adjusted each year in accordance with a formula that accounts for changes in inflation and industry-wide changes in productivity.

121. The rules we adopt to prevent the subsidies prohibited by Sections 260 and 271 through 276 of the 1996 will be shaped by our price cap regulations. A "pure" price cap system would permanently eliminate sharing, claims for exogenous treatment, and the need for the Commission to consider adjustments to productivity factors. Under pure price cap regulation, there would be few incentives to subsidize nonregulated services with revenues from regulated telecommunications services and the need for accounting safeguards to ensure against subsidies would be greatly diminished, unless, of course, there are other ways in which the carrier's entitlement to any revenues is dependent upon the costs the carrier classifies as regulated.

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[246] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, 5 FCC Rcd 6786, 6807 (1990) ("LEC Price Cap Order"), Erratum, 5 FCC Rcd 7664 (Com. Car. Bur. 1990), modified on recon., 6 FCC Rcd 2637 (1991) ("LEC Price Cap Reconsideration Order"), aff'd, National Rural Telecom Ass'n v. FCC, 988 F.2d 174 (D.C. Cir. 1993), (citing Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Notice of Proposed Rulemaking, 2 FCC Rcd 5208 (1987)); Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195 (1988); Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873 (1989) ("AT&T Price Cap Order"), Erratum, 4 FCC Rcd 3379 (1989), modified on recon., 6 FCC Rcd 665 (1991) ("AT&T Price Cap Reconsideration Order"), remanded, AT&T v. FCC, 974 F.2d 1351 (D.C.Cir. 1992), vacated, Order and Notice of Proposed Rulemaking, 8 FCC Rcd. 3715 (1993).

2. Exogenous Costs and Part 64

122. Under our price cap rules for incumbent local exchange carriers, most changes in a carrier's costs of providing regulated services are treated as "endogenous," which means they do not result in adjustments to the carrier's price cap indices. Certain cost changes, however, triggered by administrative, legislative, or judicial action that are beyond the control of the carriers may result in adjustments to those indices. The Commission concluded that failing to recognize these cost changes by adjusting price cap indices would either unjustly punish or reward the carrier.[247] Price cap carriers may claim adjustments to their indices based on costs that are beyond the carriers' control if they are not otherwise accounted for in the price cap formula. Such costs are defined as "exogenous."[248] Accordingly, the Commission has found that those types of cost changes should be treated "exogenously" to ensure that price cap regulation does not lead to unreasonably high or unreasonably low rates.[249]

123. Our price cap rules for incumbent local exchange carriers specify that "[s]ubject to further order of the Commission, those exogenous cost changes shall include cost changes caused by . . . [t]he reallocation of investment from regulated to nonregulated activities pursuant to [Section 64.901 of the Commission's rules]."[250] Under a strict reading of this rule, cost reallocations due to changes in the Part 64 cost allocation process would result in exogenous treatment only to the extent amounts are reallocated "from regulated to nonregulated activities." We seek comment on this interpretation and whether all such reallocations to nonregulated activities that may result from the provision of telemessaging service should trigger an adjustment to lower price cap indices. We also seek comment on the potential exogenous treatment of new investment in network plant, some of which will be used for telemessaging service. As noted above, this investment may later require reallocation under Part 64 if the

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[247] LEC Price Cap Order, 5 FCC Rcd at 6807.

[248] See 47 C.F.R. § 61.45(d).

[249] The Commission has determined, however, that not all changes beyond the carrier's control should be treated exogenously. For example, a general change in tax rates is outside the carrier's control, but will be reflected in the inflation factor used to adjust price caps annually. Exogenous treatment of a tax change would thus unfairly "double count" its impact. The Commission concluded that only changes that "uniquely or disproportionately affect LECs" would be considered for exogenous treatment. LEC Price Cap Order, 5 FCC Rcd at 6808. GNP-PI, the gross national product price index, was replaced by the gross domestic product price index (GDP-PI) as the inflation factor in the price cap formula.

[250] 47 C.F.R. § 61.45(d)(1)(v). We only treat accounting cost changes caused from changes in USOA requirements exogenously to the extent they represent economic cost changes caused by administrative, legislative, or judicial requirements beyond the control of the carriers that are not reflected in the GDP-PI. Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd 8961, 9090, para. 293 (1995).

proportion of regulated usage to nonregulated usage changes over time.[251]

3. Part 64 and Sharing

124. Under our price cap rules, incumbent local exchange carriers can select the productivity factor they will use to determine annual adjustments to their price cap indices.[252] If they choose not to select the highest productivity factor permitted under our rules, they are required to "share." Under sharing, incumbent local exchange carriers earning in excess of prescribed earnings levels must refund a portion of the excess earnings in subsequent rate periods by reducing their price cap indices.[253] Those earnings are equal to the incumbent local exchange carrier's interstate revenues less the regulated interstate costs. Improper cost allocation can increase the incumbent local exchange carrier's regulated interstate costs and, therefore, can reduce the carrier's sharing obligations. We note, however, that in their most recent annual tariff filings all but four price cap local exchange carriers[254] elected the highest interim productivity factor we had prescribed, which exempts them from sharing obligations for the 1995-96 access year.[255] We seek comment on whether our eliminating sharing obligations permanently for price cap carriers would eliminate the need for Part 64 processes in our regulation of these companies. We also seek comment on how the relationship of our cost allocation rules to price cap local exchange carriers should influence the outcome of this proceeding.

B. Section 254(k)

125. Section 254(k) prohibits a telecommunications carrier from "us[ing]

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[251] See Section II.B.1.a., infra.

[252] See 47 C.F.R. § 61.45(b).

[253] See Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd 8961, 9049, para. 197 (1995) (tentatively concluding that we should "eventually" eliminate sharing and move to a system of pure price caps). See also Price Cap Performance Review, Fourth Further Notice of Proposed Rulemaking, 10 FCC Rcd 13659, 13679, para. 127 (1995).

[254] The exceptions are Citizens Utilities, Southern New England Telephone Company, US West Communications and some GTE operating companies.

[255] In the LEC Price Cap Performance Review, the Commission adopted interim price cap rules establishing three productivity factors from which local exchange carriers could select -- 4.0 percent, 4.7 percent and 5.3 percent. No sharing obligation for the interim period is required of local exchange carriers that choose the highest factor. Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd 8961 (1995) ("LEC Price Cap Performance Review") aff'd sub nom. Bell Atlantic Telephone Companies v. FCC, No. 95-1217 (D.C. Cir. 1996).

services that are not competitive to subsidize services that are subject to competition."[256] Section 254(k) further states that "[t]he Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services."[257] We seek comment on whether our proposals related to Sections 260 and 271 through 276 of the 1996 Act are sufficient to implement Section 254(k)'s requirements that carriers not "use services that are not competitive to subsidize services that are subject to competition" and that the Commission, "with respect to interstate services," establish rules necessary to ensure that regulated universal services "bear no more than a reasonable share of the joint and common costs of facilities used to provide those services."[258]

V. PROCEDURAL ISSUES

A. *Ex Parte* Presentations

126. This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.[259]

B. Initial Regulatory Flexibility Analysis

127. Section 603 of the Regulatory Flexibility Act, as amended,[260] requires an initial regulatory flexibility analysis in notice and comment rulemaking proceedings, unless we certify that "the rule will not, if promulgated, have a significant economic impact on a significant number of small entities."[261] The Regulatory Flexibility Act generally defines the term "small entity" as having the same meaning as "small-business concern" under the Small Business Act,[262] which defines "small-business concern" as "one which is independently owned and operated and

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[256] See 47 U.S.C. § 254(k).

[257] Id.

[258] Id.

[259] See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206.

[260] Id. at § 603.

[261] Id. at § 605(b).

[262] Id. at § 601(6), adopting 15 U.S.C. § 632(a)(1).

which is not dominant in its field of operation . . . ."[263] This proceeding pertains to the Bell Operating Companies and other incumbent local exchange carriers which, because they are dominant in their field of operations, are by definition not small entities under the Regulatory Flexibility Act. We therefore certify, pursuant to Section 605(b) of the Regulatory Flexibility Act, that the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Secretary shall send a copy of this Notice, including this certification and statement, to the Chief Counsel for Advocacy of the Small Business Administration.[264] A copy of this certification will also be published in the Federal Register notice.

C. Paperwork Reduction Act

128. This Notice contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due 60 days from date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

129. Written comments by the public on the proposed or modified information collection are due on or before August 26, 1996 and reply comments on or before September 10, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

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[263] 15 U.S.C. § 632(a)(1).

[264] 5 U.S.C. § 605(b).

D. Comment Filing Procedures

130. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§1.415 and 1.419, interested parties may file comments on or before August 26, 1996, and reply comments on or before September 10, 1996. To file formally in this proceeding, you must file an original and six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and eleven copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Ernestine Creech of the Common Carrier Bureau's Accounting and Audits Division, 2000 L Street, N.W., Suite 257, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. ("ITS"), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Interested parties can reach ITS by telephone at (202) 857-3800. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

131. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we require that comments and reply comments include a short and concise summary of the substantive arguments raised in the pleading.[265] Comments, exclusive of appendices and summaries of substantive arguments, shall be no longer than sixty (60) pages and reply comments no longer than thirty (30) pages.

132. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Ernestine Creech of the Common Carrier Bureau's Accounting and Audits Division, 2000 L Street, N.W., Suite 257, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using WordPerfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

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[265] Comments and reply comments must also comply with Section 1.49 and all other applicable sections of the Commissions Rules. See 47 C.F.R. §1.49. However, we require here that a summary be included with all comments and reply comments, regardless of length. The summary may be paginated separately from the rest of the pleading (e.g., as "i, ii"). See 47 C.F.R. §1.49. Neither this summary nor any appendices of expert analysis or relevant State orders shall count toward the page limits.

E. Additional Information

133. For further information concerning this proceeding, contact John V. Giusti or Mark B. Ehrlich, Accounting and Audits Division, Common Carrier Bureau at (202) 418-0850.

VI. ORDERING CLAUSES

134. Accordingly, IT IS ORDERED that, pursuant to Sections 260 and 271-276 of the 1996 Act and Sections 1, 2, 4, 201-205, 215, 218, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§151(a), 152(b), 154, 201-205, 215, 218, 220, 260 and 271-276, that NOTICE IS HEREBY GIVEN of proposed amendments to Parts 32 and 64 of the Commission's rules, 47 C.F.R. Part 32 and 64, as described in this NOTICE OF PROPOSED RULEMAKING.

135. IT IS FURTHER ORDERED that, the Secretary shall send a copy of this NOTICE OF PROPOSED RULEMAKING, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§601 *et seq.* (1981).

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary